

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD WEHRENBURG,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No: 14-1477
	)	
v.	)	US District Judge Mark R. Hornak
	)	
METROPOLITAN PROPERTY AND CASUALTY INSURANCE COMPANY,	)	<b>ELECTRONICALLY FILED</b>
	)	
Defendant.	)	<b>JURY TRIAL DEMANDED</b>

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the Defendant Metropolitan Property And Casualty Insurance Company, by and through its counsel, Danielle M. Vugrinovich, Esquire and Marshall Dennehey Warner Coleman & Goggin and presents the within Motion for Summary Judgment:

1. Defendant incorporates its Concise Statement of Undisputed Material Facts and record references herein as if set forth fully.

2. Plaintiff's breach of contract claim fails because Plaintiff cannot meet his burden of proof, as a matter of law, that his property damage claim is covered under the terms and conditions of the insurance policy.

3. Plaintiff's property damage claim is not covered because Plaintiff failed to timely report his claim in June of 2012 and Metropolitan has been prejudiced as a result.

4. Plaintiff did not sustain "sudden and accidental direct physical loss or damage" to his property.

5. Even if Plaintiff's claim could be considered to have been sudden and accidental direct physical loss, the damage is excluded under the Metropolitan policy because it consists of

defective, inadequate, faulty or unsound workmanship, repair, construction, renovation, or remodeling and acts of others.

6. In the alternative, in the event that this Court finds that Plaintiff's claim could be covered, Plaintiff cannot meet his burden of proof, by clear and convincing evidence, that the Defendant acted with reckless disregard of a lack of reasonable basis in denying Plaintiff's claim.

7. Moreover, it is undisputed that Metropolitan had a reasonable basis for denying Plaintiff's claim. Metropolitan relied upon counsel who opined that Plaintiff's claim was not vandalism and/or even if it could be considered vandalism, the policy exclusions as stated above were applicable.

WHEREFORE, Defendant Metropolitan Property and Casualty Insurance Company respectfully requests this Honorable Court to grant its Motion for Summary Judgment and dismiss all of the claims of Plaintiff's Amended Complaint, with prejudice.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

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